

**DRAFT/UNAPPROVED
VIRGINIA BOARD OF PHARMACY
MINUTES OF A PANEL OF THE BOARD**

Wednesday, June 4, 2008
Second Floor
Board Room 2

Department of Health Professions
Perimeter Center
9960 Mayland Drive
Richmond, Virginia 23233

Orders/Consent Orders referred to in these minutes are available upon request

CALL TO ORDER: A meeting of a panel of the Board of Pharmacy ("Board") was called to order at 2:30 p.m.

PRESIDING: Bobby Ison, Chairman

MEMBERS PRESENT: Gill Abernathy
Willie Brown
Jennifer H. Edwards
David C. Kozera
Mickey Stradler
Brandon K. Yi

STAFF PRESENT: Elizabeth Scott Russell, Executive Director
Cathy M. Reiniers-Day, Deputy Executive Director
Caroline D. Juran, Deputy Executive Director
Elizabeth M. Revere, Disciplinary Program Specialist
Howard Casway, Senior Assistant Attorney General

QUORUM: With seven members of the Board present, a quorum was established.

JAMES Q. UNDERWOOD
License Number 0202-006303 A formal hearing was held in the matter of James Q. Underwood following the summary suspension of his pharmacist license on March 28, 2008, and to discuss allegations that he may have violated certain laws and regulations governing the practice of pharmacy in Virginia.

William Clay Garrett, Assistant Attorney General, prosecuted the case with the assistance of Amanda E. Mitchell, DHP Adjudication Specialist.

Susan Beasecker, DHP Compliance Case Manager, and Donna Whitney, HPIP Outreach Program Manager and Case Manager, appeared and testified on behalf of the Commonwealth.

Mr. Underwood appeared with Lisa Lawrence, Esquire.

Mr. Underwood testified on his own behalf.

Closed Meeting:

Mr. Kozera moved, and the Panel voted 7-0, to convene a closed meeting pursuant to Section 2.2-3711(A)(28) of the Code of Virginia for the purpose to reach a decision in the matter of James Q. Underwood. Additionally, he moved that Scotti Russell and Howard Casway attend the closed meeting.

Reconvene:

Mr. Kozera moved, and the Panel voted 7-0, that only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion for closed meeting were heard, discussed or considered during the closed meeting.

Decision:

Mr. Yi moved, and the Panel voted 7-0, to adopt the Findings of Fact and Conclusions of Law as proposed by Mr. Garrett and modified by the Panel and read by Mr. Casway (Attachment 1).

Mr. Kozera moved, and the Panel voted 7-0, that Mr. Underwood's license be continued on indefinite suspension.

MELISSA T. MOORE
Registration # 0230-012153

A formal hearing was held in the matter of Melissa T. Moore following the summary suspension of her pharmacy technician registration on May 6, 2008, and to discuss allegations that she may have violated certain laws and regulations governing the practice of pharmacy technicians in Virginia.

Ms. Moore was not present at the hearing. The Panel proceeded in Ms. Moore's absence as the Notice of Formal Hearing dated May 6, 2008, was mailed to Ms. Moore's legal address of record, both regular and certified mail. Mr. Ison ruled that adequate notice was provided to Ms. Moore and the hearing proceeded in her absence.

James Schliessmann, Assistant Attorney General, prosecuted the case with the assistance of Mykl Egan, DHP Adjudication Specialist.

CLOSED MEETING:

Mr. Kozera moved, and the Panel voted 7-0, to convene a closed meeting pursuant to Section 2.2-3711(A)(28) of the

Code of Virginia for the purpose to reach a decision in the matter of Melissa T. Moore. Additionally, he moved that Scotti Russell, Cathy Reiniers-Day, and Howard Casway attend the closed meeting.

RECONVENE:

Mr. Kozera moved, and the Panel voted 7-0, that only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion for closed meeting were heard, discussed or considered during the closed meeting.

DECISION:

Mr. Yi moved, and the Panel voted 7-0, to accept the Findings of Fact and Conclusions of Law as proposed by Mr. Schliessmann, and read by Mr. Casway. (Attachment #2)

Mr. Kozera moved, and the Panel voted 7-0, that Ms. Moore's pharmacy technician registration be revoked.

SUSAN A. VIPPERMAN
Registration # 0230-003617

A formal hearing was held in the matter of Susan A. Vipperman following the summary suspension of her pharmacy technician registration on May 6, 2008, and to discuss allegations that she may have violated certain laws and regulations governing the practice of pharmacy technicians in Virginia.

Ms. Vipperman was not present at the hearing. The Panel proceeded in Ms. Vipperman's absence as the Notice of Formal Hearing dated May 6, 2008, was mailed to Ms. Vipperman's legal address of record, both regular and certified mail. Mr. Ison ruled that adequate notice was provided to Ms. Vipperman and the hearing proceeded in her absence.

Mr. Schliessmann prosecuted the case with the assistance of Amanda E. Mitchell, DHP Adjudication Specialist.

DECISION:

Mr. Yi moved, and the Panel voted 7-0, to accept the Findings of Fact and Conclusions of Law as proposed by Mr. Schliessman (Attachment 3).

Mr. Kozera moved, and the Panel voted 7-0, that Susan A. Vipperman's pharmacy technician registration be revoked.

ADJOURN:

With all business concluded, the meeting adjourned at 6:15 p.m.

Cathy M. Reiniers-Day
Deputy Executive Director

Bobby Ison, Chairman

Date

Attachment 1
Board of Pharmacy
Formal Hearings – Panel
June 4, 2008

VIRGINIA:

BEFORE THE BOARD OF PHARMACY

IN RE: JAMES Q. UNDERWOOD, III, PHARMACIST
License No.: 0202-006303

ORDER

Pursuant to § 2.2-4020, § 2.2-4021, § 54.1-110, and § 54.1-2400(11) of the Code of Virginia (1950), as amended ("Code"), a formal administrative hearing was held before a panel of the Board of Pharmacy ("Board") on June 4, 2008, in Henrico County, Virginia, to receive and act upon the license of James Q. Underwood, III, to practice pharmacy in the Commonwealth of Virginia, which was summarily suspended by the Board on March 28, 2008, pursuant to § 54.1-2408.1 of the Code. The case was prosecuted by William C. Garrett, Assistant Attorney General. Howard M. Casway, Senior Assistant Attorney General, was present as legal counsel for the Board. Mr. Underwood was present and was represented by Lisa K. Lawrence, Esquire. The proceedings were recorded by a certified court reporter.

Upon consideration of the evidence presented, the Board adopted the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. James Q. Underwood, III, was issued License No. 0202-006303 to practice as a pharmacist by the Board on July 28, 1981. Said license was summarily suspended pursuant to an Order of the Board entered on March 28, 2008.

2. Pursuant to an Order of the Board entered November 6, 2006 ("Board's Order"), Mr. Underwood's license was reinstated on the condition that he enter into and comply with the terms and conditions of the Health Practitioners Intervention Program ("HPIP"). On November 20, 2006, he entered into a Participation Contract with HPIP. On December 19, 2006, he entered into a Recovery Monitoring Contract, including term #6 in which he agreed "to refrain from practice until approved to return to work in a health profession by HPIP staff." On March 6, 2008, Mr. Underwood was urgently dismissed from the program for non-compliance due to his employment as a pharmacist with CVS/pharmacy #7577 without authorization from HPIP. According to information provided by CVS

J. Underwood, III

Corporate offices, Mr. Underwood was employed with CVS/pharmacy from December 14, 2007, until terminated on March 6, 2008, initially in training and later, as a staff pharmacist, without on-site supervision.

3. In an interview with the Board's compliance case manager on March 14, 2008, Mr. Underwood, when asked if HPIP gave him permission to work, stated that he had not been given permission to work by HPIP. He further indicated that he and his psychiatrist "decided it was time and this should have been done a long time ago."

4. Mr. Underwood testified that he left repeated messages with his HPIP case manager regarding his prospective employment but never heard anything back from him and never attempted to contact any other HPIP staff. As a result, having heard nothing to the contrary from HPIP, Mr. Underwood, purportedly with his psychiatrist's concurrence, began employment with CVS/pharmacy on December 14, 2007. Mr. Underwood further testified that he left employment with CVS/pharmacy on March 7, 2008, based upon four patient complaints that were made to his supervisor over a two-month period.

5. As reflected in his testimony, Mr. Underwood steadfastly maintained that he had acted appropriately in returning to work without approval from HPIP when, in fact, the terms of the HPIP contract and the Board Order were clear and unequivocal to the contrary.

CONCLUSIONS OF LAW

The Board concludes that Finding of Fact #2 constitutes a violation of Term No. 1 of the Board's Order.

ORDER

WHEREFORE, the Virginia Board of Pharmacy, effective upon entry of this Order, hereby ORDERS that the pharmacist license of James Q. Underwood, III, be CONTINUED on INDEFINITE SUSPENSION. At such time as he shall petition the Board for reinstatement of his license, a hearing will be convened to receive evidence satisfactory to the Board that Mr. Underwood is able to resume the safe and competent practice of pharmacy. Consistent with the terms of this Order, in the event that Mr. Underwood seeks reinstatement of his license, he shall be responsible for any fees that may be required for the

J. Underwood, III

reinstatement and renewal of his license prior to issuance of his license to resume practice.

As provided by Rule 2A:2 of the Supreme Court of Virginia, Mr. Underwood has thirty (30) days from the service date in which to appeal this decision by filing, in writing, a Notice of Appeal with Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 9960 Mayland Drive, Suite 300, Richmond, Virginia, 23233-1463. The service date shall be defined as the date Mr. Underwood actually received this decision or the date it was mailed to him, whichever occurred first. In the event this decision is served upon him by mail, three (3) days are added to that period.

Pursuant to § 2.2-4023 and § 54.1-2400.2 of the Code of Virginia, the signed original of this Order shall remain in the custody of the Department of Health Professions as a public record and shall be made available for public release, inspection and copying upon request.

FOR THE BOARD

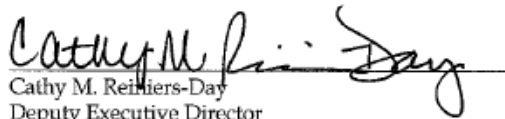


Elizabeth Scott Russell
Executive Director

Entered: June 9, 2008

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Order was mailed to James Q. Underwood, III, at 3336 Circle Brook Drive, Apt. K, Roanoke, Virginia 24018, on this 9th day of June, 2008.



Cathy M. Reiniers-Day
Deputy Executive Director

Attachment 2
Board of Pharmacy
Formal Hearings – Panel
June 4, 2008

MELISSA T. MOORE

Attachment 3
Board of Pharmacy
Formal Hearings – Panel
June 4, 2008

VIRGINIA:

BEFORE THE BOARD OF PHARMACY

IN RE: **SUSAN A. VIPPERMAN, PHARMACY TECHNICIAN**
 Registration No.: 0230-003617

ORDER

Pursuant to § 2.2-4020, § 2.2-4021, § 54.1-110 and § 54.1-2400(11) of the Code of Virginia (1950), as amended ("Code"), a formal administrative hearing was held before a panel of the Board of Pharmacy ("Board") on June 4, 2008, in Henrico County, Virginia, to receive and act upon the registration of Susan A. Vipperman to practice as a pharmacy technician in the Commonwealth of Virginia, which was summarily suspended by the Board on May 6, 2008, pursuant to § 54.1-2408.1 of the Code. The case was prosecuted by James E. Schliessmann, Assistant Attorney General. Howard M. Casway, Senior Assistant Attorney General, was present as legal counsel for the Board. Ms. Vipperman was not present and was not represented by counsel. The proceedings were recorded by a certified court reporter.

Upon consideration of the evidence presented, the Board adopted the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Susan A. Vipperman was issued Registration Number 0230-003617 to practice as a pharmacy technician by the Board on February 13, 2004. Said registration was summarily suspended pursuant to an Order of the Board entered on May 6, 2008.

2. Based upon the representations of James E. Schliessmann, Assistant Attorney General, and Commonwealth's Exhibits #1 and #3 i.e., the Notice of Formal Hearing and Statement of Particulars, and the Affidavit of Mailing, the presiding officer ruled that adequate notice was provided to Ms. Vipperman and the hearing proceeded in her absence.

S. Vipperman

3. Between February 15, 2008 and March 20, 2008, by Ms. Vipperman's own admission, during the course of her employment as a pharmacy technician at CVS/pharmacy #5505, Abingdon, Virginia, she diverted oxycodone 15mg (Schedule II) from the pharmacy stock for her own personal and unauthorized use. Ms. Vipperman self-administered the diverted medication both during and following her shifts.

CONCLUSIONS OF LAW

The Board concludes that Finding of Fact #3 constitutes a violation of § 54.1-3316(4) and (9) of the Code.

ORDER

WHEREFORE, on the basis of the foregoing Findings of Fact and Conclusions of Law, it is hereby ORDERED that the registration of Susan A. Vipperman be and hereby is REVOKED. Upon entry of this Order, the registration of Ms. Vipperman shall be recorded as revoked and no longer current. Pursuant to § 54.1-2408.2 and consistent with the terms of this Order, should Susan A. Vipperman seek reinstatement of her registration after a period of three (3) years, she shall be responsible for any fees that may be required for the reinstatement and renewal of her registration prior to issuance of her registration to resume practice.

As provided by Rule 2A:2 of the Supreme Court of Virginia, Ms. Vipperman has thirty (30) days from the service date in which to appeal this decision by filing, in writing, a Notice of Appeal with Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 9960 Mayland Drive, Suite 300, Richmond, Virginia, 23233-1463. The service date shall be defined as the date Ms. Vipperman actually received this decision or the date it was mailed to her, whichever occurred first. In the event this decision is served upon her by mail, three (3) days are added to that period.

Pursuant to § 2.2-4023 and § 54.1-2400.2 of the Code of Virginia, the signed original of this Order shall remain in the custody of the Department of Health Professions as a public record and shall be made available for public release, inspection and copying upon request.

S. Vipperman

FOR THE BOARD



Elizabeth Scott Russell
Executive Director

Entered: June 9, 2008

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Order was mailed to Susan A. Vipperman at
362 Nicholas Street, Abingdon, Virginia 24210 on this 9th day of June, 2008.



Cathy M. Reniers-Day
Deputy Executive Director